

CONFIRMATION OF ELECTION

Applicant would confirm that on August 6, 2003, Applicant's attorney made a provisional election to prosecute the invention of the tree stand platform having a pair of closure members, each pivotally attached to the frame and opening opposed to one another. Applicant would further confirm that claims 1-14, 16, 17 and 20-22, read on the elected species.

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

Applicant has amended the claims to obviate the informalities kindly noted by the Examiner.

Applicant would graciously thank the examiner for the kind assistance in providing a complete examination.

Claim 1 recites a tree stand comprising platform...a pair of closure doors, and means articulately mounting said closure doors on said platform between closure positions generally lying in the same plane...and open upstanding positions transverse to said plane.

Claim 16 similarly recites a tree stand including a horizontal platform including a vertical opening...first and second swingable closure means for selectively closing the opening...and swingably movable on said platform to an open position.

Claim 17 similarly recites a pair of elongate doors...articulately mounting said doors to said platform for concurrent swinging movement between closed positions lying in the same plane and open positions transverse to the plane.

Claim 19 includes a similar recitation.

It is respectfully submitted that this claimed concept is not disclosed or remotely suggested in the art of record. The Berry Patent No. US 6,505,707 B1 discloses a typical prior art tree stand including a platform 12 having an access opening 25 covered by a single door 32 which is hinged to the rearward-most reinforcing platform member 12b via carpet (column 7, line 21-23). This patent discloses a typical single door which was disclosed in U.S. Patent No. 4,410,066 that applicant alluded to in the instant specification

as being potentially unsafe, too large and noisy. In the Berry Patent '707, the door 32 will swing upwardly toward the chair 40 to the position illustrated in Fig. 4. The construction illustrated in the Berry Patent is complicated and cumbersome as the disposition of the chair relative to the access door 32 will undoubtedly interfere with free access of the hunter to the inside of the tree stand. The single door is too large and will undoubtedly interfere with the chair which is freely pivotally movable on the frame bars 38.

Moreover, the large single door of Berry is also problematic because of the relative difficulty in closing a large single door. Accordingly, it is clear that the Berry Patent does not disclose or suggest Applicant's construction. In any event, Applicant is enclosing herewith an Affidavit Under Section 131 swearing behind the effective date of the Berry Patent and thus, eliminating it as a reference. Applicant is the first and only person to suggest the concept of articulately mounting a pair of closure doors on the platform of a tree blind.

The Examiner recognizes Applicant's contribution and distinction over the Berry Patent and relies on the Potts Patent No. 766,061 issued in 1904 for a conventional and non-analogous cellar door. It is respectfully submitted that one designing and building a tree stand would not look to a cellar door construction for a proposed modification of a tree stand. The Berry Patent and the Potts Patent are in completely non-analogous fields. It is respectfully submitted that any suggestion of modifying the Berry Patent by the use of a pair of articulately mounted cellar closure doors of Potts is a hindsight suggestion made only in view of Applicant's own disclosure since Applicant is the first and only one to disclose this concept.

In any event, with the resultant elimination of the Berry Patent as a prior art reference, the proposed combination is no longer viable.

It is further respectfully submitted that the tree stand art is considered to be a crowded art and that advances in a crowded art need not be as great to support a patentable advance. The case of In Re: Hummer, 113 USPQ 66, held that progress in crowded arts is usually made in small increments and narrow improvements may be patentable.

The allowance of claim 6 is appreciated. This claim has not been rewritten in independent form, however, since it is now believed to depend from an otherwise allowable claim.

The Yamaguchi et al Patent No. JP 8218613, the Dutton Patent No. 5,927,435 and the Roy Patent No. 4,699,248 have been reviewed but they do not disclose or remotely suggest Applicant's concept of a pair of closure doors articulately mounted on the platform.

Applicant would further cite the Examiner to U.S. Patent No. 6,053,190 issued to Len J. Brown, Jr. on April 25, 2000 which came to the Applicant's attention during the pendency of this application.

The Brown patent likewise does not disclose the concept of a pair of closure doors articulately mounted on the platform but rather discloses a wooden door supported in an opening 22 via a brace 44 with protruding ends 46 receivable within frame recesses 48. The wooden door in Brown is not articulately mounted in any way but rather has a pair of rearwardly opening rectangular matches which are received in a complementally shaped frame bars that allows the door to slide upwardly from the position illustrated in Fig. 5 to

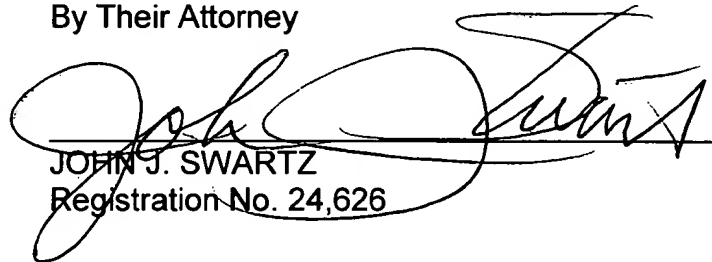
a vertically elevated position illustrated in Fig. 6. It is respectfully submitted that this Brown construction is a disaster looking for a place to happen and is certainly unsafe, noisy and does not in any way anticipate or remotely suggest Applicant's claimed construction.

Since all of the claims now remaining in the application are respectfully submitted to be in obvious condition for allowance, an early Notice of Allowance is earnestly solicited.

Respectfully submitted,

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By Their Attorney



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